



CITATION OF PRIOR ART

PATENT 6,608,271, ISSUED 08-19-2003, DANGER RESEARCH

Numbers between brackets refer to the item number of the list of exhibits, ex. (2)

This citation is done in accordance with § 2200 to introduce prior art by a third party. Such a citation is free as per §2205 citing §1501. The citation must be filed with the patent as per §2205.

The third party serving the citation is :

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<http://www.pendrive.be/eluminx.htm>
licensee

Its agent is his administrateur-gérant :

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Belgian

1. Patent 6,608,271

The patent 6,608,271 is named herein "contested patent", granted upon application numbered 09/932,195, introduced by the law firm Blakely Sokoloff Taylor & Zafman acting for the inventor Matias Duarte with last known address in San Francisco.

The attorney of record of said firm, Thomas Webster, has been served at his office with address :

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The assignee of rights is :

Danger research
124 University Avenue, Ste 300
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no registration number found

2. Patent 6,199,996

Patent upon which this citation relies has been published by the WIPO on 9 March 2000 with number WO/2000/012931 (1). The patent was granted by the US PTO on 13 March 2001. This patent is still valid. This patent is named "licensee's patent" herein.

The patent was granted by your office before the filing of the application. Priority of any claim of the patent is thereby established.

Product

The Eluminx keyboard of which a data sheet with copyright for the year 2002 is attached (4), is using the licensee's patent as stated on the last line of page 2.

Considering usual design and production delays, it was available in the US well before April 2003 when the then CEO of the commercializing company could state the success of its introduction (3) during the E3 Expo

At least one review of the product was published in May 2003 (2). Other reviews around the same period can be found on the Internet using a search engine and the keyword Eluminx including a review by PC Magazine in March 2003 of which an advertising is at the URL
http://www.findarticles.com/p/articles/mi_zdpcm/is_200303/ai_ziff37775

The licensee had since Octobre 2003 the exclusive rights for the said Eluminx keyboard for Belgium and since May 2004 for France, The Netherlands and Spain. The licensee has not commercialized the keyboard in the US to date but it was done at least by an affiliate of the licensor owner of the web site www.eluminx.com.

The existence of the product demonstrates the completeness and the usability of the patent.

Ownership

The owner on record of the licensee's patent is :

Twenty-First Century Technologies, Inc.
33 Caryville Crossing
Bellingham
MA 02019
USA

registered in Delaware under #2933025

The agent registered for the owner is :

The Company Corporation
2711 Centerville Road Suite 400
Wilmington
DE-19808
USA

License

The licensee owns an exclusive worldwide license for, between others, manufacturing and sale rights of any product using the patent effective since 15 september 2005 following the agreement signed with :

Ennova Direct Inc.
1362 Pacific Avenue, suite 216
Santa Cruz
CA 95060
USA

Licensor

registered in California under #C2436767

All attempts to obtain action against infringing applications, patent and counterfeiters from patent owner and licensor remained without effect. As a consequence, the licensee has a vested interest in serving the citation.

3. Patentability

Art (Claims 1 to 39)

No inventive activity took place for the writing of the application. The licensee's patent provides all needed information for building most of the claimed apparatus as says lines 8 to 10 of column 5 including methods which are presented with all needed details.

Claims structure

For the sake of clarity of what follows, let us notice that claims 1, 29, 34 and 37 of the contested patent are independent. All other claims add or modify these claims and are qualified as dependent.

Light source

(claims 1, 2, 16, 19 to 22, 29, 34 to 37)

The technique described in the contested patent is identical to the one described in the licensee's patent. It is based on the usage of a "light source". The device not being described in any detail, any device emitting light fits the definition.

The licensee's patent describes a technique fitting the definition of the device with the words "luminescent sheet" used in all claims except dependent claims 8, 9, 14 and 16.

In the rest of this title 3, each subtitle focuses on one or more claims of the contested patent and is an independent cause of rejection for each identified claim.

Claim 1

The first sentence establishes that the apparatus relies on the usage of keys similarly to a keyboard considering that it is described using the numeral "first". This statement is confirmed by claim 23.

The claim explains that a light source is able to produce two different colors. The light source is increasing the contrast between glyphs without any explanation on the mode of interaction of the light source and the glyphs.

Finally, this claim describes incompletely claim 7 of the licensee's patent which also proposes multiple colors under keys.

Claim 3 and 4

Usual keyboards since they exist have the space surrounding the glyph (letter, sign,...) left to the color of the key material and possibly white or black. Otherwise, the glyph cannot be distinguished from its surrounding.

Claim 13, 32 and 33 do not add any information as they inverse complementarity of colors of claim 1 where they are not ordered.

Claim 14 explains the mere functioning of the bi-colored light source and the glyphs. Obviously, if all glyphs were visible at the same time, they would be individually unreadable when overlapping.

Claim 15 suppresses the term "relatively closer" from the described complementarity of colors of claim 1. This is a limit case which is not adding anything to claim 1.

Claim 16 repeats claim 14. It proposes to act only on wavelength to create the contrast effect. The words "type of light" used in claim 14 already cover any physical characteristic used to create the contrast effect.

Claim 18 attempts to qualify the light source. Ultraviolet, infrared and laser only specify the wavelength used. This parameter has already been erroneously claimed before. Fluorescent and incandescent light sources are means of producing the light. They are both in usage since ages. Further, these lights are invisible to the key user. Consequently, the value of the claim cannot be understood.

Claim 19 places the light source under the key like in the licensee's patent claims already stated.

Claim 28 describes glyphs as any type of mark. This is the definition of the term "glyph".

Claim 34 recites claim 1 for a set of keys, i.e. a keyboard and finishes with a sentence similar to claim 2. Combined comments of claims 1 and 2 are identical for claim 34.

Claim 37 repeats claim 1 by changing the word glyph to the phrase "non-opaque region" which does not modify the sense of it.

4. Prior art

In the rest of title 4, each subtitle is a claim or a set of claims for which the existence of a product or the usage of the technology is showed to be public well before the filing of the application. Each subtitle is a independent cause of rejection for each identified claim.

Claim 8 is identical to claim 5. Transparency is not a novelty as it depends only on the material used. Polymethylmethacrylat used between others in the said Eluminx keyboard realizes transparency.

Claim 18 Any emergency exit sign around the world is making use of this claim. The glyph being the green sign displayed.

Claim 23 claims that grouping keys makes a keyboard. Grouping keys to build a keyboard originates with the invention of the typewriter.

Claim 24 claims that a key is used as a light source selector. This description fits any "entry/wait" sign outside an office.

Claim 25 claims that light source can be selected by voice. This description fits home automation applications like a voice activated dimmer (see f.i. <http://www.vossystems.com/products.htm>).

Claim 26 claims that the light source is selected using a touch screen. This description fits for instance building maintenance applications where lights are remotely managed.

Claim 27 claims that the light source is software. The previous prior art cited equally fits this definition.

Claim 29 attempts to describe a method for alternatively showing one glyph or another.

The usage of complementary colors is generally named color mixing and is a staple of any light professional equipment manufacturer, see f.i. www.lobos.de. For a short introduction on the related physical theory, see f.i. : <http://www.intor.com/OpticsClassroom/OpticsClassroom.html>

The display of a glyph by changing colors is used in various applications. One of them is explained on the web site of American Polarizers, Inc. at <http://www.apioptics.com/polar1.htm>.

Claim 31 repeats the last sentence of claim 29.

Claim 36 indicates that light passes from one key to the next laterally, i.e. like previous claim 35. This requires some dependent claims which are not repeated.

5. Non sense

The non sense identified here does not allow the licensee to properly state what is eventually infringing on his license requiring eventual clarification.

Claim 2 and 30

The claims state that the glyph possess some function to act on the light source. Considering that the word glyph refers to a drawing, no mode of interaction can be imagined.

Claim 5

The purpose of the apparatus is to illuminate one or more keys. Considering that the light source is toward the key, without the key being translucent, no light would shine through it.

Claims 6 and 11 states that glyphs are transparent. Considering that glyphs are colored according to independent claim 1 of reference, transparency cannot be achieved. If glyphs are effectively transparent, they cannot be seen.

Claims 7, 9 and 12

The purpose of the apparatus is to illuminate one or more glyphs. Considering that the light source is toward the key, without glyphs being translucent, no light would shine through the glyphs.

If one admits glyphs to be translucent from the beginning, then the repeated words "one or more components of optically transmissive material" in claims 1, 6, 7, 10, 11 and "key of optically transmissive material" in claim 15 fully of licensee's patent cover the claims.

Claim 10 adds colors to claim 1. As claim 7 of the patent does not limit the number of colors, this claim is not adding anything.

Claim 20 places the light source above the key. Considering that claim 1 directs the light towards the key, no light is visible for the user of the key thereby suppressing the described usage of the apparatus.

Claim 21 places the light source toward a side of the key. The key is translucent or transparent only with claim 5 to which claim 21 does not refer. If one admits that the key is translucent, then the glyphs are lighted by diffracted light. The application does not allow to understand how this is feasible as either light output required would either :

- light all surrounding keys eventually requiring two different colors for each key
- shine on the side of the lighted key blinding the glyphs
- heat the keyboard

Claim 35 places the light source on the side of the set of keys similarly to claim 21. The same arguments apply.

Claim 38 attempts to make a difference between the glyph inside the previous "non-opaque region". This is senseless as the glyph cannot be distinguished from the non-opaque region.

Claim 39 repeats claim 37 where the non-opaque region is in some shape containing an opaque glyph. Considering that both opaque glyphs are one onto the other whatever the color used they cannot be distinguished.

List of attached exhibits

Each exhibit is one page unless otherwise stated.

1. Pages 7, 8 and 9 of patent 6,199,996 provided to allow text references using columns and lines numbers. (3 pages)
2. Review of licensee product published between others on Internet dated 23rd May 2003 (2 pages)
(<http://www.madshrimps.be/?action=getarticle&articleID=70>)
3. Statement of then CEO of then Auravision LLC stating the success of the Eluminx keyboard dated 30th April 2003 during E3 Expo 2003.
(see title "Fatal1ty Products soon ?")
(<http://www.gametactics.com/cgi-bin/newspro/arc3-2003.htm>)
4. Data sheet of the company which introduced the licensee product in the US.
(2 pages)